

Published in The Wichita Eagle on July 2, 2012

## SUMMARY OF ORDINANCE NO. 49-256

AN ORDINANCE AMENDING SECTIONS 5.01.020, 5.10.010, 5.10.020, 5.10.025, 5.10.035, 5.15.010, 5.24.010, 5.24.040, 5.26.020, 5.28.010, 5.30.020, 5.32.010, 5.36.030, 5.38.036, 5.42.010, 5.42.015, 5.42.020, 5.42.035, 5.42.060, 5.44.040, 5.66.010, 5.66.050, 5.68.005, 5.68.020, 5.68.030, 5.68.110, 5.68.120, 5.68.140, 5.68.150, 5.68.155, 5.68.156, 5.68.170, 5.68.180, 5.68.190, 5.68.200, 5.68.215, 5.68.220, 5.72.010, 5.73.050, 5.75.010, 5.75.020, 5.82.010, 5.88.020 AND 5.88.030 CREATING SECTIONS 5.26.038, 5.26.039, 5.37.030, 5.42.005, 5.42.065, 5.85.010 AND 5.85.020 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO PUBLIC SAFETY AND MORALS AND REPEALING THE ORIGINALS OF SECTIONS 5.01.020, 5.10.010, 5.10.020, 5.10.025, 5.10.035, 5.15.010, 5.24.010, 5.24.040, 5.26.020, 5.28.010, 5.30.020, 5.32.010, 5.36.030, 5.38.036, 5.42.010, 5.42.015, 5.42.020, 5.42.035, 5.42.060, 5.44.040, 5.66.010, 5.66.050, 5.68.020, 5.68.030, 5.68.110, 5.68.120, 5.68.140, 5.68.150, 5.68.155, 5.68.156, 5.68.170, 5.68.180, 5.68.190, 5.68.200, 5.68.215, 5.68.220, 5.72.010, 5.73.050, 5.75.010, 5.75.020, 5.82.010, 5.88.020 AND 5.88.030 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

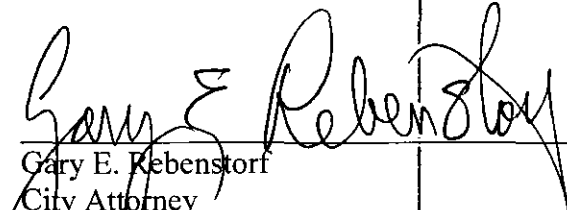
The amendments to the City of Wichita's Public Safety Code bring the City's ordinances into compliance with the terminology used in the state criminal code. They adopt the intent language utilized by the state in defining criminal offenses. The elements necessary to prove crimes under the City's criminal ordinances mirror the state law requirements. Further, the amendments remove mandatory minimum jail sentences for battery, prostitution and prostitution in emphasis areas.

The City Code sections amended are as follows:

5.01.020	-	Penalty – Ethnic Intimidation
5.10.010	-	Assault Deemed Misdemeanor
5.10.025	-	Domestic Battery
5.10.035	-	Battery of a Law Enforcement Officer
5.15.010	-	Victim or Witness Intimidation
5.24.010	-	Disorderly Conduct
5.24.040	-	Penalty – Violations of Chapter 5.24
5.26.020	-	Unlawful Acts Regarding Depressants, Stimulants or Other Substances
5.26.038	-	Distribution of Controlled Substance
5.26.039	-	Unlawful Possession of a Simulated Controlled Substance
5.28.010	-	Inhalation Unlawful – Exceptions
5.30.020	-	Report required (wounds)
5.32.010	-	False Alarm
5.36.030	-	Permitting Premises to be Used for Gambling
5.37.030	-	Defacement or Damage of Property by Graffiti

5.38.036	-	Fraud and Cheating in Obtaining Accommodations	
5.42.005	-	Definitions (Larceny)	
5.42.010	-	Petit Theft	
5.42.015	-	Prima Facia Evidence of Intent to Permanently Deprive Owner or Lessor of Possession, Use or Benefit of Property	
5.42.020	-	Giving a Worthless Check	
5.42.035	-	Unlawful Use of a Financial Card	
5.42.060	-	Theft of Lost or Mislaid Property	
5.42.065	-	Receiving Stolen Property	
5.44.040	-	Illegal Dumping	
5.66.010	-	Criminal Damage to Property	
5.66.050	-	Criminal Trespass	
5.66.055	-	Interference with the Conduct of a Lawful Business	
5.68.020	-	Patronizing a Prostitute	
5.68.030	-	Promoting Prostitution	
5.68.110	-	Soliciting for Immoral Purposes	
5.68.120	-	Adultery	
5.68.140	-	Lewd and Lascivious Behavior	
5.68.150	-	Promoting Obscenity Unlawful – Definitions – Evidence- Defense to Prosecution – Exceptions – Penalty	
5.68.155	-	Promoting Obscenity to Minors – Defined – Defense to Prosecution	
5.68.156	-	Displaying Material Harmful to Minors	
5.68.170	-	Sodomy for Hire	
5.68.180	-	Patronizing a Person Offering Sodomy for Hire	
5.68.190	-	Promoting Sodomy for Hire	
5.68.200	-	Sodomy	
5.68.215	-	Anti-prostitution Emphasis Area – Enhanced Penalties	
5.68.220	-	Sexual Battery	
5.72.010	-	Interference with Law Enforcement	
5.73.050	-	Rioting	
5.75.010	-	Interference with Conduct of Public Business – Defined	
5.75.020	-	Interference with Conduct of Public Business – Misdemeanor	
5.82.010	-	Interference With Telephone Service	
5.85.010	-	Unlawful Interference with a Firefighter	
5.85.020	-	Interference with Emergency Medical Services Personnel	
5.88.020	-	Unlawful Discharge of a Firearm, Air Rifles, Pellet Guns and BB Guns	
5.88.030	-	Air Rifles, Pellet and BB Guns – Carrying Within the City	

This summary is hereby certified as legally accurate and sufficient in accordance with K.S.A. 12-3001(2) et seq., as amended.

  
\_\_\_\_\_  
Gary E. Rebenstorf  
City Attorney  
City of Wichita, Kansas

***The complete text of this Ordinance may be obtained or viewed free of charge at the office of the City Clerk, City Hall, 455 N. Main, 13<sup>th</sup> Floor, Wichita, KS 67202 or viewed online at [www.wichita.gov](http://www.wichita.gov) for seven (7) calendar days from the date of this publication.***

First Published in The Wichita Eagle on

7-1-12

04/24/2012

ORDINANCE NO.

49-256

AN ORDINANCE AMENDING SECTIONS 5.01.020, 5.10.010, 5.10.020, 5.10.025, 5.10.035, 5.15.010, 5.24.010, 5.24.040, 5.26.020, 5.28.010, 5.30.020, 5.32.010, 5.36.030, 5.38.036, 5.42.010, 5.42.015, 5.42.020, 5.42.035, 5.42.060, 5.44.040, 5.66.010, 5.66.050, 5.68.005, 5.68.020, 5.68.030, 5.68.110, 5.68.120, 5.68.140, 5.68.150, 5.68.155, 5.68.156, 5.68.170, 5.68.180, 5.68.190, 5.68.200, 5.68.215, 5.68.220, 5.72.010, 5.73.050, 5.75.010, 5.75.020, 5.82.010, 5.88.020 AND 5.88.030 CREATING SECTIONS 5.26.038, 5.26.039, 5.37.030, 5.42.005, 5.42.065, 5.85.010 AND 5.85.020 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO PUBLIC SAFETY AND MORALS AND REPEALING THE ORIGINALS OF SECTIONS 5.01.020, 5.10.010, 5.10.020, 5.10.025, 5.10.035, 5.15.010, 5.24.010, 5.24.040, 5.26.020, 5.28.010, 5.30.020, 5.32.010, 5.36.030, 5.38.036, 5.42.010, 5.42.015, 5.42.020, 5.42.035, 5.42.060, 5.44.040, 5.66.010, 5.66.050, 5.68.020, 5.68.030, 5.68.110, 5.68.120, 5.68.140, 5.68.150, 5.68.155, 5.68.156, 5.68.170, 5.68.180, 5.68.190, 5.68.200, 5.68.215, 5.68.220, 5.72.010, 5.73.050, 5.75.010, 5.75.020, 5.82.010, 5.88.020 AND 5.88.030 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 5.01.020 of the Code of the City of Wichita, Kansas, pertaining to ethnic intimidation, is hereby amended to read as follows:

**“Penalty.** ~~(a)~~ Upon a conviction of a violation of the provisions of this chapter a person shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than two hundred fifty dollars nor more than two thousand five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.”

SECTION 2. Section 5.10.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Assault deemed misdemeanor.** Any person who, within the corporate limits of the city, knowingly places another person in reasonable apprehension of immediate bodily harm, is guilty of a misdemeanor. No bodily contact is necessary."

SECTION 3. Section 5.10.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Battery deemed misdemeanor.** (a) Any person who, within the corporate limits of the city, (1) knowingly or recklessly causes bodily harm to another person or (2) knowingly causes physical contact with another person when done in a rude, insulting or angry manner, is guilty of a misdemeanor.

(b) Every person convicted under this section, shall be punished by fine of not more than one thousand dollars or one year imprisonment or both such fine and imprisonment."

SECTION 4. Section 5.10.025 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Domestic battery.** (a) Domestic Battery, within the corporate limits of the city, is: (1) knowingly or recklessly causing bodily harm by a family or household member to a family or household member or knowingly or recklessly causing bodily harm by an individual in a dating relationship to an individual with whom the offender is involved or has been involved to in a dating relationship or (2) knowingly causing physical contact by a family or household

member with a family or household member or knowingly causing physical contact by an individual in a dating relationship to an individual with whom the offender is involved or has been involved in a dating relationship when done in a rude, insulting or angry manner, is guilty of a misdemeanor.

(b) As used in subsection (a) of this section, "family or household member" means persons eighteen years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. Family or household member also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.

(c) As used in subsection (a) of this section 'dating relationship' means a social relationship of a romantic nature. In addition to any other factors the court deems relevant, the trier of fact may consider the following when making a determination of whether a relationship exists or existed: nature of the relationship, length of time the relationship existed, frequency of interaction between the parties and the time since termination of the relationship, if applicable.

(d) Upon a first conviction, a person shall be sentenced to not less than forty-eight consecutive hours nor more than six months' imprisonment and fined not less than two hundred dollars, nor more than five hundred dollars. The court, in its discretion, may enter an order which requires the person to enroll in and

successfully complete a domestic violence prevention program which has been approved by the Administrative Judge of the Municipal Court.

(e) Upon a second conviction, the offender shall be sentenced to not less than ninety days nor more than one year's imprisonment and a fine of not less than five hundred dollars nor more than one thousand dollars. The court shall impose a mandatory minimum jail sentence of five consecutive days and no person shall be eligible for probation or parole until serving the entire minimum sentence. The five days' imprisonment mandated by this paragraph may be served in a work release program only after such person has served forty-eight consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The offender shall serve at least five consecutive days imprisonment before the offender is granted probation, suspension or reduction of sentence or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete a treatment program for domestic violence prevention which has been approved by the Administrative Judge of the Municipal Court.

(f) For the purposes of determining whether a conviction is a first, second, or subsequent conviction in sentencing under this section:

(1) 'Conviction' includes being convicted of a violation of this section, or entering into a deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging violation of this section.

(2) 'Conviction' includes being convicted of a violation of a law of this state or of another state or an ordinance of any municipality which prohibits the acts that this section prohibit or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such a law or ordinance;

(3) It is irrelevant whether an offense occurred before or after conviction for a previous offense."

SECTION 5. Section 5.10.035 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Battery of a law enforcement officer.** (a) Any person who, within the corporate limits of the city;

(1) knowingly or recklessly causes bodily harm or

(2) knowingly causes physical contact with a uniformed or properly identified state, county or city law enforcement officer while such officer is engaged in the performance of such officer's duty, in a rude, insulting or angry manner, is guilty of a misdemeanor.

(b) Every person convicted under this section, shall be punished by fine of not more than two thousand five hundred dollars or one year imprisonment or both such fine and imprisonment."

SECTION 6. Section 5.15.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Victim or witness intimidation.** (a) Intimidation of a witness or victim is preventing or dissuading, or attempting to prevent or dissuade with an



intent to vex, annoy, harm or injure in any way another person or an intent to thwart or interfere in any manner with the orderly administration of justice:

(1) Any witness or victim from attending or giving testimony at any criminal trial, proceeding or inquiry authorized by law; or

(2) Any witness, victim or person acting on behalf of a victim from:

a. Making any report of the victimization of a victim to any law enforcement officer, prosecutor, probation officer, correctional officer, judicial officer or emergency communications dispatcher.

b. Causing a complaint to be sought and prosecuted, or causing a violation of probation or parole to be reported and prosecuted, and assisting in its prosecution.

c. Arresting or causing or seeking the arrest of any person in connection with the victimization of a victim.

(b) The following definitional sections shall apply to this section:

(1) "Victim" means any individual against whom any crime under the laws of this state, this municipality or any municipality in this state, is being, has been or is attempted to be committed;

(2) "Witness" means any individual:

a. Who has knowledge of the existence or nonexistence of facts relating to any criminal trial, proceeding or inquiry authorized by law.

b. Whose declaration under oath is received or has been received as evidence for any purpose.

c. Who has reported any crime to any law enforcement officer, prosecutor, probation officer, parole officer, correctional officer, community correctional services officer or judicial officer, or any emergency communications dispatcher.

d. Who has been served with a subpoena issued under the authority of a municipal court or any court or agency of this state, or

e. Who would be believed by any reasonable person to be an individual described in this subsection.

(c) Intimidation of a victim or witness is a misdemeanor, and such sentence shall include a term of imprisonment of not more than six months and/or a one thousand dollar fine or both such fine and imprisonment."

SECTION 7. Section 5.24.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Disorderly conduct.** Disorderly conduct is, one or more of the following acts that the person knows or should know will alarm, anger or disturb others or provoke an assault or other breach of the peace:

- (a) Engaging in brawling or fighting; or
- (b) Disturbing an assembly, meeting, or procession, not unlawful in its character; or
- (c) Using fighting words or engaging in noisy conduct tending to reasonably arouse alarm, anger or resentment in others.

As used in this section, 'fighting words' means words that by their very utterance inflict injury or tend to incite the listener to an immediate breach of peace.

Every person convicted of violating this section shall be punished by imprisonment of a term not to exceed thirty (30) days or a fine of not more than five hundred dollars (\$500.00) or both such imprisonment and fine."

SECTION 8. Section 5.24.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Same—Penalty.** Unless otherwise specified, violation of any of the provisions of this chapter constitutes a misdemeanor, and any violation thereof shall be punished by a fine of not more than five hundred dollars, or one year imprisonment, or by both such fine and imprisonment."

SECTION 9. Section 5.26.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Unlawful acts regarding depressants, stimulants or other substances.**

Except as authorized by the Uniform Controlled Substances Act, K.S.A. 65-4101, et seq., no person shall possess or have under such person's control any of the following controlled substances or controlled substance analogs thereof:

(a) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(b) Any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(c) Any substance designated in subsection (g) of K.S.A. 65-4105, and amendments thereto, and designated in subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111 and amendments thereto; or

(d) Any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109 and amendments thereto;

(e) Any substance designated in K.S.A. 65-4113 and amendments thereto;

(f) Any substance designated in subsection (h) of K.S.A. 65-4105 and amendments thereto.”

SECTION 10. Section 5.26.038 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Distribution of Controlled Substance.** It shall be unlawful for any person to distribute or possess with the intent to distribute any controlled substance or a controlled substance analog designated in K.S.A. 65-4113 and amendments thereto to a person who is over the age of eighteen (18).”

SECTION 11. Section 5.26.039 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Unlawful Possession of a Simulated Controlled Substance.** It shall be unlawful for any person to use or possess with the intent to use a simulated controlled substance.”

SECTION 12. Section 5.28.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**Inhalation unlawful—Exceptions.** (A) Abusing toxic vapors is possessing, buying, using, smelling or inhaling the fumes of toxic vapors with the intent of causing a condition of euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system, or to sell, give, or offer to sell or give to any other person any of the elements, compounds or combination of both elements and compounds as defined in subsection (D), if such person has knowledge that the product will be used in violation of this section.

(B) This subsection shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.

(C) Abusing toxic vapors is a misdemeanor, and such sentence shall include a term of imprisonment of not more than six months and/or a one thousand dollar fine. In addition to any sentence or fine imposed, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program or treatment program as provided in K.S.A. 8-1008, and amendments thereto, or both the education and treatment programs.

(D) For the purposes of this section, the term "toxic vapors" means the following substances or products containing such substances:

- (1) Alcohols, including methyl, isopropyl, propyl or butyl;
- (2) Aliphatic acetates, including ethyl, methyl, propyl or methyl cellosolve acetate;
- (3) Acetone;
- (4) Benzene;
- (5) Carbon tetrachloride;
- (6) Cyclohexane;
- (7) Freons, including freon 11 and freon 12;
- (8) Hexane;
- (9) Methyl ethyl ketone;
- (10) Methyl isobutyl ketone;
- (11) Naphtha;
- (12) Perchlorethylene;
- (13) Toluene;
- (14) Trichloroethane; or
- (15) Xylene.

(E) In a prosecution for a violation of this section, evidence that a container lists one or more of the substances described in subsection (D) as one of its ingredients shall be prima facie evidence that the substance in such container contains toxic vapors and emits the fumes thereof."

SECTION 13. Section 5.30.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Report required.** (a) Unlawful failure to report a wound is, with no requirement of a culpable mental state, the failure by an attending physician or other person to report such person’s treatment of any of the following wounds, to the office of the Chief of Police of the city or the office of the Sheriff of the county in which such treatment took place:

(1) Any bullet wound, gunshot wound, powder burn or other injury arising from or caused by the discharge of a firearm; or

(2) any wound which is likely to or may result in death and is apparently inflicted by a knife, ice pick or other sharp or pointed instrument.

(b) Unlawful failure to report a wound is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500) and thirty (30) days imprisonment, or by both such fine and imprisonment.”

SECTION 14. Section 5.32.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“False Alarm.** (a) Any person who transmits in any manner to the Fire Department of any city or county a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists;; or

(b) Any person who makes a call in any manner for emergency service assistance including police fire, medical or other emergency service, knowingly at

the time of such call that there is no reasonable ground for believing such assistance is needed, is guilty of a misdemeanor.

(c) Any person convicted of giving a false alarm shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500) or one year imprisonment, or both such fine and imprisonment.”

SECTION 15. Section 5.36.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Permitting premises to be used for gambling.**

Permitting premises to be used for gambling is knowingly:

(a) Granting the use or allowing the continued use of a place as a gambling place; or

(b) Permitting another to set up a gambling device for use in a place under the offender's control.

(c) Anyone violating any of the provisions of this section shall be guilty of a misdemeanor and shall be punished as set forth in Section 5.36.050, and any amendments thereto.”

SECTION 16. Section 5.37.030 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Defacement or damage of property by graffiti.** Any person who writes, sprays, scratches or otherwise affixes graffiti upon any property, public or private, in which another has an interest and without the consent of such other person shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars (\$250.00) or more



than one thousand dollars (\$1,000.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. In addition to such penalty the court may order the defendant to perform the necessary labor to clean up, repair, or replace the property damaged by that person, or to pay any costs incurred by the owner or the City of Wichita related to the cleanup, repair or replacement of property damaged by that person.”

SECTION 17. Section 5.38.036 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Fraud and cheating in obtaining accommodations.** (a) Any person who shall obtain food, lodging or other accommodations with a value of two hundred ~~five~~ dollars or less, at any inn, restaurant, hotel, boarding house, apartment house, dwelling unit or rooming house by means of any trick, deception or false representation, statement or pretense, with intent to defraud the owner or keeper thereof, and shall fail or refuse to pay therefor, shall be deemed guilty of a misdemeanor.

(b) Any person convicted of violating Section 5.38.046 shall be punished by a fine not to exceed five hundred dollars (\$500) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.”

SECTION 18. Section 5.42.005 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Definitions.** As used in this chapter, the following terms shall have the following meanings:

(a) 'Deception' means knowingly creating or reinforcing a false impression, including false impressions as to law, value, intention or other state of mind. Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that such person did not subsequently perform the promise. Falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive reasonable persons, is not deception.

(b) 'Deprive permanently' means to:

(1) Take from the owner the possession, use or benefit of property, without an intent to restore the same;

(2) retain property without intent to restore the same or with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or

(3) sell, give, pledge or otherwise dispose of any interest in property or subject it to the claim of a person other than the owner.

(c) 'Obtain' means to bring about a transfer of interest in or possession of property, whether to the offender or to another.

(d) 'Obtains or exerts control' over property includes, but is not limited to, the taking, carrying away, sale, conveyance, transfer of title to, interest in, or possession of property.

(e) 'Owner' means a person who has any interest in property;

(f) 'Property' means anything of value, tangible or intangible, real or personal;

(g) 'Services' means labor, professional services, cable television service, public or municipal utility or transportation service, telephone service, entertainment and the supplying of equipment for use.

(h) 'Stolen property' means property over which control has been obtained by theft.

(i) 'Threat' means a communicated intent to inflict physical or other harm on any person or on property."

SECTION 19. Section 5.42.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Petit theft.** Petit theft is any of the following acts done with intent to deprive the owner permanently of the possession, use or benefit of his property:

(a) Obtaining or exerting unauthorized control over property or services having a value of less than one thousand dollars;

(b) Obtaining by deception control over property or services having a value of less than one thousand dollars;

(c) Obtaining by threat control over property or services having a value of less than one thousand dollars;

(d) Obtaining control over property or services having a value of less than one thousand dollars knowing the property to have been stolen by another.

Any person convicted of petit theft shall be deemed guilty of a misdemeanor, and shall be punished by a fine not to exceed two thousand five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment. In addition, whenever any person is convicted of petit

theft, the court shall order such person to be fingerprinted and photographed immediately following such conviction unless such person has already been photographed and fingerprinted when charged with the specific offense which is the subject of such conviction.”

SECTION 20. Section 5.42.015 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Prima facie evidence of intent to permanently deprive owner or lessor of possession, use or benefit of property. (a)** In any prosecution under this title, the following shall be prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit thereof:

(1) The giving of a false identification or fictitious name, address or place of employment at the time of obtaining control over the property;

(2) The failure of a person who leases or rents personal property to return the same within ten days after the date set forth in the lease or rental agreement for the return of the property, if notice is given to the person renting or leasing the property to return the property within seven days after receipt of notice, in which case the subsequent return of the property within the seven-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section;

(3) Destroying, breaking or opening a lock, chain, key switch, enclosure or other device used to secure the property in order to obtain control over the property;

(4) Destruction of or substantially damaging or altering the property so as to make the property unusable or unrecognizable in order to obtain control over the property.

(5) The failure of a person who leases or rents from a commercial renter a motor vehicle under a written agreement that provides for the return of the motor vehicle to a particular place at a particular time, if notice has been given to the person renting or leasing the motor vehicle to return such vehicle within three calendar days from the date of the receipt or refusal of the demand. In addition, if such vehicle has not been returned after demand, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;

(6) The failure of a person who is provided with a use of a vehicle by the owner of the vehicle to return it to the owner pursuant to a written instruction specifying:

(A) The time and place to return the vehicle; and

(B) That failure to comply may be prosecuted as theft, and such instructions are delivered to the person by the owner at the time the person is provided with possession of the vehicle. In addition, if such vehicle has not been returned pursuant to the specifications in such instructions, the owner may notify the local

law enforcement agency of the failure of the person to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;

(7) Removing a theft detection device, without authority, from merchandise or disabling such device prior to purchase; or

(8) The failure to replace or reattach the nozzle and hose of the pump used for the dispensing of motor fuels or placing such nozzle and hose on the ground or pavement.

(b) In any prosecution for a misdemeanor in which the object of the alleged theft is a book or other material borrowed from a library, it shall be prima facie evidence of intent to permanently deprive the owner of the possession, use or benefit thereof if the defendant failed to return such book or material within 30 days after receiving notice from the library requesting its return, in which case the subsequent return of the book or material within the 30-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section.

(c) In a prosecution for theft as defined in this chapter, and such theft is of services, the existence of any of the connections of meters, alterations or use of unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service, caused by tampering, shall be prima facie evidence of intent to commit theft of services by the person or persons using or receiving the

direct benefits from the use of the electricity, natural gas, water, telephone service of cable television service passing through such connections or meters, or using the electricity, natural gas, water, telephone service or cable television service which has not been authorized or measured. Tampering includes, but is not limited to:

(1) Making a connection of any wire, conduit or device, to any service or transmission line owned by a public or municipal utility, or by a cable television service provider;

(2) Defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service;

(3) Preventing any such meters from properly measuring or registering;

(4) Knowingly taking, receiving, using or converting to such person's own use, or the use of another, any electricity, water or natural gas which has not been measured; or any telephone or cable television service which has not been authorized; or

(5) Causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts.

(d) The word "notice" as used herein shall be construed to mean notice in writing and such notice in writing will be presumed to have been given three days following deposit of the notice as registered or certified matter in the United

States mail, addressed to such person who has leased or rented the personal property at the address as it appears in the information supplied by such person at the time of such leasing or renting, or to such person's last known address.”

SECTION 21. Section 5.42.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“**Giving a worthless check.** ~~(1)~~ (a) Giving a worthless check is the making, drawing, issuing, or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing or delivering of such check, order or draft, that the maker or drawer has no deposit in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation.

(b) Subsection (1) of this section shall apply if the check, draft or order is drawn for less than one thousand dollars.

(c) In any prosecution against the maker or drawer of a check, order or draft, payment of which has been refused by the drawee on account of insufficient funds, the making, drawing, issuing or delivering of such check shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with the drawee; (1) unless the maker or drawer pays the holder thereof the amount due thereon and a service charge not exceeding thirty dollars for each check, within seven days after notice has been given to the maker or drawer that



such check, draft or order has not been paid by the drawee; or (2) if a postdated date is placed on the check, order or draft without the knowledge or consent of the payee.

(d) As used in this section, the word 'notice' shall have the following meaning:

(1) 'Notice' includes oral or written notice to the person entitled thereto. Written notice shall be presumed to have been given when deposited as restricted matter in the United States Mail, addressed to the person to be given notice at such person's address as it appears on such check, draft or order. Check is any check, order or draft on a financial institution. Financial institution means any bank, credit union, savings and loan association or depository.

(e) It shall not be a defense to a prosecution under this section that the check, draft or order upon which such prosecution is based:

(1) Was postdated, unless such check, draft or order was presented for payment prior to the posted date; or

(2) Was given to a payee who had knowledge or had been informed when the payee accepted such check, draft or order, that the maker did not have sufficient funds in the hands of the drawee to pay such check, draft or order upon presentation, unless such check, draft or order was presented for payment prior to the date the maker informed the payee there would be sufficient funds.

(f) Penalty. Any person convicted of giving a worthless check is guilty of a misdemeanor and shall be punished by a fine not to exceed two thousand five hundred dollars or by imprisonment for not more than one year or by both such fine and imprisonment.”

SECTION 22. Section 5.42.035 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Unlawful use of a financial card.** (a) Criminal use of a financial card is any of the following acts done with intent to defraud and for the purpose of obtaining money, goods, property, or services.

(1) Using a financial card without the consent of the card holder; or

(2) Knowingly using a financial card, or the number or description thereof, which has been revoked or canceled; or

(3) Using a falsified, mutilated, altered or nonexistent financial card or a number or description thereof.

(b) For the purposes of this section:

(1) ‘Financial Card’ means an identification card, plate, instrument, device, or number issued by a business organization authorizing the card holder to purchase, lease, or otherwise obtain money, goods, property, services or communication services or to conduct other financial transactions.

(2) ‘Card holder’ means the person or entity to whom or for whose benefit a financial card is issued.

(3) For the purposes of subsection (a)(2) hereof, a financial card shall be deemed canceled or revoked when notice in writing thereof has been received by the named holder thereof as shown on such financial card or by the records of the company.

(c) Penalty. Criminal use of a financial card is a misdemeanor if the money, goods, property, or services obtained within a seven-day period are of the value of less than one thousand dollars. Any person convicted of criminal use of a financial card shall be punished by a fine not to exceed two thousand five hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.”

SECTION 23. Section 5.42.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Theft of lost or mislaid property.** Any person who fails to take reasonable measures to restore lost, mislaid or property delivered to them by a mistake, to the owner, when the person has obtained control of such property, who knows or learns the identity of the owner thereof, and who intends to deprive the owner permanently of the possession, use or benefit of such property, shall be deemed guilty of a misdemeanor, and any person convicted thereof shall be punished by a fine not to exceed two thousand five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.”

SECTION 24. Section 5.42.065 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Receiving stolen property.** (a) A person commits the crime of receiving stolen property, with a value of less than one thousand dollars, if for the purposes of depriving the owner of a lawful interest therein, he or she receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

(b) Evidence of the following is admissible in any criminal prosecution pursuant to this section to prove the requisite knowledge or belief of the alleged receiver:

(1) That he or she was found in possession or control of other property stolen on separate occasions from two or more persons;

(2) That he or she received other stolen property in another transaction within the year preceding the transaction charged;

(3) That he or she acquired the stolen property for a consideration which he or she knew was far below its reasonable value;

(4) That he or she obtained control over stolen property knowing the property to have been stolen or under such circumstances as would reasonably induce a person to believe the property was stolen.”

SECTION 25. Section 5.44 040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Illegal dumping.** (a) It is unlawful to dump or cause to be dumped any wasted matter in or upon any public or private highway or road,

including any portion of the right-of-way thereof, or in or upon any private property into or upon which the public is admitted by easement or license, or upon any private property without the consent of the owner, or in or upon any public park or other public property other than property designated or set aside for the purpose by the governing body having charge of that property.

(b) Any person violating this section is guilty of a misdemeanor. Each day that waste placed, deposited, or dumped in violation of this section remains is a separate violation.

(c) This section does not restrict a private owner in the use of his or her own private property, unless the placing, depositing, or dumping of the waste matter on the property creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by the health department.

(d) Whenever waste dumped in violation of this section is discovered to contain any article or articles, including but not limited to letters, bills, publications or other writings which display the name of a person thereon, addressed to such person or in any other manner indicating that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this chapter. Presumptions in this section may be overcome by proof that the person identified from the letter or other item caused the waste to be collected and transported for disposal at an approved site by a person licensed by the city to collect and dispose of solid waste.

(e) Any person convicted of a violation of this section shall be punished by a mandatory fine of not less than two hundred fifty dollars nor more

than one thousand dollars upon a first conviction, or by imprisonment for not more than twelve months, or by both such fine and imprisonment. Upon a second or subsequent conviction by a mandatory fine of not less than one thousand dollars nor more than two thousand dollars or by imprisonment for not more than twelve months, or by both such fine and imprisonment. If upon the trial of any person found guilty of a misdemeanor hereunder, it shall appear to the court that the violation complained of is continuing, the court shall enter such order as it shall deem appropriate to cause the violation to be abated.

(f) The court may require, in addition to any fine imposed upon a conviction, that, as a condition of probation and in addition to any other condition of probation, a person convicted under this section remove, or pay the cost of removing, any waste matter which the convicted person dumped or caused to be dumped upon public or private property.

(g) Except when the court requires the convicted person to remove waste matter which he or she is responsible for dumping as a condition of probation, the court may, in addition to the fine imposed upon a conviction, require as a condition of probation, in addition to any other conditions of probation, that any person convicted of a violation of this section pick up waste matter at a time and place within the jurisdiction of the court for not less than twelve hours.

(h) Any person who places, deposits, or dumps, or causes to be placed, deposited, or dumped, waste matter in violation of this section in bulk quantities, tires, furniture, or appliances shall be guilty of a misdemeanor, and upon a first

conviction thereof shall be punished by a fine of not less than five hundred dollars or more than one thousand dollars, or by imprisonment for not more than twelve months, or by both such fine and imprisonment. Upon a second or subsequent conviction shall be punished by a fine of not less than one thousand dollars nor more than two thousand dollars, or by imprisonment for not more than twelve months, or by both such fine and imprisonment. If upon trial of any person found guilty of a misdemeanor hereunder, it shall appear to the court that the violation complained of is continuing, the court shall enter such order as it shall deem appropriate to cause the violation to be abated.

(i) Except in unusual cases where the interests of justice would be best served by waiving or reducing the fine, the minimum fines provided by this section shall not be waived or reduced. Except that the court may order that the defendant perform community service specified by the court in lieu of the mandatory fines imposed, but such an order shall be entered only after the court has required the defendant to file an affidavit of such defendant's financial condition as required by Section 1.04.210(e) and amendments thereto, and the court has found from the information contained in the affidavit that the defendant is financially unable to pay the fines imposed."

SECTION 26. Section 5.66.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Criminal damage to property.** (a) Criminal damage to property is by means other than by fire or explosive:

(1) Knowingly damaging, mutilating, defacing, destroying, or substantially impairing the use of any property, in which another has an interest without the consent of such other person; or

(2) Damaging, mutilating, defacing, destroying or substantially impairing the use of any property, with intent to injure or defraud an insurer or lienholder.

(b) Criminal damage to property is a misdemeanor if the property damaged is of a value of less than one thousand dollars, or is of the value of one thousand dollars or more and is damaged to the extent of less than one thousand dollars.

(c) Penalty. Any person who is convicted of criminal damage to property shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed two thousand five hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment."

SECTION 27. Section 5.66.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Criminal trespass.** Criminal trespass is entering or remaining upon or in any land, structure, vehicle, aircraft or watercraft by a person who knows he/she is not authorized or privileged to do so, and:

(a) Such person enters or remains therein in defiance of an order not to enter or to leave such premises on property personally communicated to such person by the owner thereof or other authorized person; or



(b) Such premises or property are posted in a manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entries; or

(c) Such person enters or remains therein in defiance of a restraining order issued pursuant to K.S.A. 60-1607, 60-3105, 60-3106, 60-3107, and any amendments to said statutory sections, and the restraining order has been personally served upon the person so restrained.

(d) Entering or remaining upon or in any public or private land or structure in a manner that interferes with access to or from any health care facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner.

(1) As used in this section:

(A) 'Health care facility'" means any licensed medical care facility, certificated health maintenance organization, licensed mental health center, or mental health clinic, licensed psychiatric hospital or other facility or office where services of a health care provider are provided directly to patients.

(B) 'Health care provider' means any person: (1) Licensed to practice a branch of the healing arts; (2) licensed to practice psychology; (3) licensed to practice professional or practical nursing; (4) licensed to practice dentistry; (5) licensed to

practice optometry; (6) licensed to practice pharmacy; (7) registered to practice podiatry; (8) licensed as a social worker; or (9) registered to practice physical therapy.

(e) Any person who commits a criminal trespass within the corporate limits of the city of Wichita shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or imprisonment which shall not exceed six months, or by both such fine and imprisonment.

(f) Upon conviction of subsection (c) of this section, a person shall be sentenced to not less than forty-eight consecutive hours of imprisonment which must be served either before or as a condition of any grant of probation, suspension or reduction of sentence. Such imprisonment may be served in work release or house arrest."

SECTION 28. Section 5.66.055 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Interference with the conduct of a lawful business.** (a) Interference with the conduct of a lawful business is:

(1) Conduct at or in any building owned, operated or controlled by a private individual or corporation that knowingly causes an obstruction to or interference with the free and uninterrupted use of such property as a lawful business by any employee, patron, patient or other invitee on such premises, or which prevents the free and uninterrupted ingress, egress or regress therein, thereon or thereto;

(2) Knowingly refusing or failing to leave any such building owned, operated or controlled by a private individual or corporation upon being requested to do so by the owner thereof, any law enforcement officer or other authorized individual.

(b) Any person who violates any of the provisions of this chapter within the corporate limits of the city shall be deemed guilty of a misdemeanor and upon conviction hereof shall be punished by the following fines:

(1) Upon a first conviction, not more than two thousand five hundred dollars:

(2) Upon a second conviction, not less than two hundred fifty dollars nor more than two thousand five hundred dollars;

(3) Upon a third conviction, not less than five hundred dollars nor more than two thousand five hundred dollars;

(4) Upon a fourth conviction, not less than seven hundred fifty dollars nor more than two thousand five hundred dollars;

(5) Upon a fifth conviction, not less than one thousand dollars; nor more than two thousand five hundred dollars;

(6) Upon a sixth conviction, not less than one thousand two hundred fifty dollars nor more than two thousand five hundred dollars;

(7) Upon a seventh conviction, not less than one thousand five hundred dollars nor more than two thousand five hundred dollars;

(8) Upon a eighth conviction, not less than one thousand seven hundred fifty dollars nor more than two thousand five hundred dollars;

(9) Upon a ninth conviction, not less than two thousand dollars nor more than two thousand five hundred dollars;

(10) Upon a tenth conviction, not less than two thousand two hundred fifty dollars nor more than two thousand five hundred dollars;

(11) And upon an eleventh or subsequent conviction, not less than two thousand five hundred dollars.

In addition to the preceding fines such person may be punished by a term of imprisonment which shall not exceed six months, or by both such fines and imprisonment.

(c) The imposition of the fines established in subparagraphs (b)(2) through (11) herein shall be mandatory and the court shall not waive, remit, suspend, parole or otherwise excuse the payment thereof except that the court may order that the defendant perform community service specified by the court but such an order shall be entered only after the court has required the defendant to file an affidavit of such defendant's financial condition as required by Section 1.04.210(e) and amendments thereto, and the court has found from the information contained in the affidavit that the defendant is financially unable to pay the fines imposed herein.

(d) For the purposes of determining whether a conviction is a first or subsequent conviction in sentencing under this section, conviction includes being convicted of a violation of this section, and it is irrelevant whether an offense occurred before or after conviction for a previous offense."

SECTION 29. Section 5.68.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Patronizing a prostitute.** Any person who patronizes a prostitute is guilty of a misdemeanor. For purposes of this chapter, "patronizing a prostitute" shall mean:

(a) Knowingly entering or remaining in a house of prostitution with the intent to engage in sexual intercourse or any unlawful sexual acts with a prostitute; or

(b) Knowingly hiring a prostitute to engage in sexual intercourse or any unlawful sexual act;

(c) Every person convicted under this section (5.68.020), shall be punished by a fine of not more than five hundred dollars or six months imprisonment or both such fine and imprisonment.”

SECTION 30. Section 5.68.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Promoting prostitution.** (a) Any persons who knowingly commits any of the following acts when the prostitute is sixteen or more years of age, shall be deemed guilty of a misdemeanor.

(1) Establishing, owning, maintaining or managing a house of prostitution, or participating in the establishment, ownership, maintenance or management thereof;

(2) Permitting any place partially or wholly owned or controlled by the defendant to be used as a house of prostitution;

- (3) Procuring a prostitute for a house of prostitution;
- (4) Inducing another to become a prostitute;
- (5) Soliciting a patron for a prostitute or for a house of prostitution;
- (6) Procuring a prostitute for a patron;
- (7) Procuring transportation for, paying for the transportation of or transporting a person within the state with the intention of assisting or promoting that person's engaging in prostitution; or
- (8) Being employed to perform any act which is prohibited by this section.

(b) Every person convicted under this section (5.68.030) shall be punished by a fine of not more than five hundred dollars or six months imprisonment or both such fine and imprisonment ”

SECTION 31. Section 5.68.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Soliciting for immoral purposes.** ~~(1)~~ (a) It is unlawful to solicit any person upon the streets or in public places within the corporate limits of the city, to engage in an act of prostitution, sodomy or sodomy for hire.

(b) For the purposes of this section, the following terms shall have the meanings respectively ascribed to them:

(1) "Public place" is any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses

of the public. Such term also includes the front or immediate area of any store, shop, restaurant, tavern or other place of business and all public grounds, areas and parks.

(2) "Prostitution" is sexual intercourse for hire.

(3) "Sodomy" is oral or anal copulation between persons who are not husband and wife or consenting adult members of the opposite sex, or between a person and an animal, or coitus with an animal.

(4) "Sodomy for hire" is an act of oral or anal copulation for hire.

(c) Any person violating the provisions of this section (5.68.110) shall be deemed guilty of a misdemeanor, and any person convicted thereof shall be punished by a fine of not more than five hundred dollars or six months imprisonment or by both such fine and imprisonment."

SECTION 32. Section 5.68.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Adultery.** Adultery is sexual intercourse or sodomy by a person with another who is not his spouse if (a) such person is married; or (b) such person is not married and knows that the other involved in such intercourse is married; any person who shall be deemed guilty of adultery shall be guilty of a misdemeanor, and any person convicted thereof shall be punished by a fine not to exceed five hundred dollars and/or imprisonment of thirty days or both such fine and/or imprisonment."

SECTION 33. Section 5.68.140 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Lewd and lascivious behavior.** Lewd and lascivious behavior is:

(a) Publicly engaging in otherwise lawful sexual intercourse or sodomy with any person or animal with knowledge or reasonable anticipation that the participants are being viewed by others who are sixteen or more years of age; or

(b) Publicly exposing a sex organ or exposing a sex organ in the presence of a person who is sixteen or more years of age, is not the spouse of the offender and who has not consented thereto, with intent to arouse or gratify the sexual desires of the offender or another.

Any person committing lewd and lascivious behavior shall be deemed guilty of a misdemeanor, and any person convicted thereof shall be punished by a fine of not more than five hundred dollars or six months; imprisonment, or both such fine and imprisonment.”

SECTION 34. Section 5.68.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Promoting obscenity unlawful—Definitions—Evidence—Defense to prosecution—Exceptions—Penalty.**

(a) It is declared to be unlawful to promote obscenity or to promote obscenity to minors. Promoting obscenity is recklessly:

(1) Manufacturing, selling, giving, providing, lending, mailing, delivering, transmitting, publishing, distributing, circulating,



disseminating, presenting, exhibiting or advertising any obscene material or obscene device; or

(2) Possessing any obscene material or obscene device with intent to ~~issue~~, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit or advertise such material or obscene device; or

(3) Offering or agreeing to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit or advertise any obscene material; or

(4) Producing, presenting or directing an obscene performance or participating in a portion thereof which is obscene or which contributes to its obscenity.

(b) Evidence that materials or devices were promoted to emphasize their prurient appeal or sexual provocative aspect shall be relevant in determining the question of the obscenity of such materials or devices. There shall be a presumption that a person promoting obscene materials or obscene devices did so recklessly if:

(1) The materials or devices were promoted to emphasize their prurient appeal; or

(2) The person is not a wholesaler and promotes the materials or devices in the course of the person's business.

(c) (1) Any material or performance is "obscene" if:

a. The average person applying contemporary community standards would find that the material or performance, taken as a whole, appeals to the prurient interest;

b. The average person applying contemporary community standards would find that the material or performance has patently offensive representations or descriptions of (A) ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse or sodomy, or (B) masturbation, excretory functions, sadomasochistic abuse or lewd exhibition of the genitals; and

c. Taken as a whole, a reasonable person would find that the material, or performance, lacks serious literary, educational, artistic, political or scientific value.

(2) 'Material' means any tangible thing which is capable of being used or adopted to arouse interest, whether through the medium of reading, observation, sound or other manner.

(3) 'Obscene device' means a device, including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs, except such devices disseminated or promoted for the purpose of medical or psychological therapy.

(4) 'Performance' means any play, motion picture, dance or other exhibition performed before an audience.

(5) 'Sexual intercourse' and 'sodomy' have the meanings provided by K.S.A. 21-5501 and amendments thereto.

(6) 'Wholesaler' means a person who sells, distributes or offers for sale or distribution obscene materials only for resale and not to the consumer and who does not manufacture, publish or produce such materials or devices.

(d) It is a defense to a prosecution for obscenity that:

(1) The persons to whom the allegedly obscene material or obscene device was disseminated, or the audience to an allegedly obscene performance, consisted of persons or institutions having scientific, educational or governmental justification for possessing or viewing the same.

(2) The defendant is an officer, director, trustee or employee of a public library and the allegedly obscene material was acquired by such library and was disseminated in accordance with regular library policies approved by its governing body; or

(3) The allegedly obscene material or obscene device was purchased, leased or otherwise acquired by a public, private or parochial school, college or university, and that such material was either sold, leased, distributed or disseminated by a teacher, instructor, professor or other faculty member or administrator of such school as part of or incident to an approved course or program of instruction at such school.

(e) The provisions of this section which prescribe a criminal penalty for exhibit of any obscene motion picture shown in a commercial showing to the general public shall not apply to a projectionist, or assistant projectionist, if such projectionist or assistant projectionist has no financial interest in the show or in its place of presentation other than regular employment as a projectionist or assistant projectionist and no personal knowledge of the contents of the motion picture. The provisions of this section shall not exempt any projectionist or assistant projectionist from criminal liability for any act unrelated to projection of motion pictures in commercial showings to the general public.

(f) Promoting obscenity is declared to be a misdemeanor punishable upon conviction by a fine of not more than two thousand five hundred dollars, or by imprisonment in the city jail for a period of not exceeding one year, or both such fine and imprisonment.

(g) Upon any conviction for promoting obscenity, the court may require, in addition to any fine or imprisonment imposed, that the defendant enter into a reasonable recognizance with good and sufficient surety, in such sum as the court may direct, but not to exceed fifty thousand dollars, conditioned to the effect that in the event the defendant is convicted of a subsequent offense of promoting obscenity within two years after such conviction, he shall forfeit the recognizance."

SECTION 35. Section 5.68.155 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Promoting obscenity to minors—Defined—Defense to prosecution—**

**Penalty.** (a) Promoting obscenity to minors is promoting obscenity where the recipient of the obscene material, device, or a member of the audience of an obscene performance is a child under the age of eighteen years. Any material, device or performance is ‘obscene’ if the average person applying contemporary community standards would find that such material or performance, taken as a whole, appeals to the prurient interest; that the material, device or performance has patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, and that the material, device or performance, taken as a whole, lacks serious literary, educational, artistic, political or scientific value.

(b) Notwithstanding the provisions of K.S.A. 21-5204, to the contrary, it shall be an affirmative defense to any prosecution under this section that:

(1) The defendant had reasonable cause to believe that the minor involved was eighteen years old or over, and such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was eighteen years old or more; or

(2) An exhibition in a state of nudity is for a bona fide scientific or medical purpose or for an educational or cultural purpose for a bona fide school, museum or library.

(c) Promoting obscenity to minors is a misdemeanor, punishable upon conviction by a fine of not more than two thousand five hundred dollars, or by imprisonment in the city jail for a period of not exceeding one year, or both such fine and imprisonment.

(d) Upon any conviction for promoting obscenity to minors, the court may require, in addition to any fine or imprisonment imposed, that the defendant enter into a reasonable recognizance with good and sufficient surety, in such sum as the court may direct, but not to exceed fifty thousand dollars, conditioned to the effect that in the event the defendant is convicted of a subsequent offense of promoting obscenity to minors within two years after such conviction, he shall forfeit the recognizance.”

SECTION 36. Section 5.68.156 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Displaying material harmful to minors. (a) Definitions.**

(1) ‘Blinder Rack’ means a device in which material is displayed in a manner that the lower two-thirds (2/3) of the material is not exposed to view;

(2) ‘Harmful to minors’ means that quality of any description, exhibition, presentation or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse when the material or performance, taken as a whole or with respect to a prosecution for an act described by subsection (2)(a) of this section, that portion of the

material that was actually exposed to the view of minors, has the following characteristics:

a. The average adult person applying contemporary community standards would find that the material, device or performance has a predominant tendency to appeal to a prurient interest in sex to minors; and

b. The average adult person applying contemporary community standards would find that the material, device or performance depicts or describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and

(c) A reasonable person would find that the material, device or performance lacks serious literary, scientific, educational, artistic or political value for minors.

(3) 'Material' means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, or recording tape, video tape.

(4) 'Minor' means any unmarried person under the age of eighteen years.

(5) 'Nudity' means the showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering; the showing of the female breast with less than a full opaque covering of any

portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernible state of sexual excitement;

(6) 'Performance' means any motion picture, film, video tape, played record, phonograph, or tape recording, preview, trailer, play, show, skit, dance or other exhibition performed or presented to or before an audience of one or more, with or without consideration.

(7) 'Person' means any individual, partnership, association, corporation, or other legal entity of any kind.

(8) A 'reasonable bona fide attempt' means an attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate or other governmental or educational identification card or paper and not relying solely on the oral allegations or apparent age of the minor.

(9) 'Sadomasochistic abuse' means flagellation or torture by or upon a person clad in undergarments, mask or bizarre costume, or in the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(10) 'Sexual conduct' means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, a female's, breast.

(11) 'Sexual excitement' means the condition of human male or female genitals when in a state of sexual stimulation or arousal.



(b) Offenses. No person having custody, control or supervision of any commercial establishment shall knowingly:

(1) Display any material which is harmful to minors in such a way that minors, as a part of the invited general public, will be exposed to view such material or device; provided, however, a person shall be deemed not to have "displayed" material harmful to minors if the material is kept behind devices commonly known as "blinder racks" so that the lower two-thirds of the material is not exposed to view;

(2) Sell, furnish, present, distribute, allow to view, or otherwise disseminate to a minor, with or without consideration, any material or device which is harmful to minors; or

(3) Present to a minor or participate in presenting to a minor, with or without consideration, any performance which is harmful to a minor.

(c) Defenses. It shall be an affirmative defense to any prosecution under this section that:

(1) The allegedly harmful material or device was purchased, leased or otherwise acquired by a public, private or parochial school, college or university, and that such material was either sold, leased, distributed or disseminated by a teacher, instructor, professor or other faculty member or administrator of such school as part of or incidental to an approved course or program of instruction at such school.

(2) The defendant is an officer, director, trustee or employee of a public library and the allegedly harmful material or device was acquired

by a public library and was disseminated in accordance with regular library policies approved by its governing body.

(3) An exhibition in a state of nudity is for a bona fide scientific or medical purpose, or for an educational or cultural purpose for a bona fide school, museum or library.

(4) With respect to a prosecution for an act described by subsection (b)(1) of this section, the allegedly harmful material was kept behind blinder racks.

(5) With respect to a prosecution for an act described by subsection (b)(1) or (b)(2) of this section, the defendant had reasonable cause to believe that the minor involved was eighteen years old or over, and such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was eighteen years old or more.

(6) With respect to a prosecution for an act described by subsection (b)(3) of this section, the allegedly harmful performance was viewed by the minor in the presence of such minor's parent or parents or such minor's legal guardian.

(d) The provisions of Section 5.68.156 shall not apply to a retail sales clerk, if such clerk has no financial interest in the materials or performance or in the commercial establishment displaying or selling, furnishing, presenting such performance other than regular employment as a retail sales clerk. The provisions

of this section shall not exempt any retail sales clerk from criminal liability for any act unrelated to regular employment as a retail sales clerk.

(e) If any provision or clause of this Section 5.68.156 or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

(f) Penalties. Any person who shall be convicted of violating any provision of this section is guilty of a misdemeanor and shall be fined a sum not exceeding one thousand dollars and may be confined in jail for a definite term which shall be fixed by the court and shall not exceed ~~one~~ six months. Each day that any violation of this section occurs or continues shall constitute a separate offense and shall be punishable as a separate violation. Every act, thing or transaction prohibited by this section shall constitute a separate offense as to each item, issue or title involved and shall be punishable as such. For the purpose of this section, multiple copies of the same identical title, monthly issue, volume and number issue or other such identical material shall constitute a single offense.”

SECTION 37. Section 5.68.170 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Sodomy for hire.** (a) Any person who commits sodomy for hire is guilty of a misdemeanor.

(b) For purposes of this section, "sodomy for hire" is defined as performing, or offering or agreeing to perform an act of oral copulation or anal copulation for hire.

(c) Every person convicted under this section (5.68.170), shall be punished by a fine of not more than five hundred dollars or six months' imprisonment or both such fine and imprisonment."

SECTION 38. Section 5.68.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Patronizing a person offering sodomy for hire.** (a) Any person who patronizes a person offering sodomy for hire, as defined in Section 5.68.170, is guilty of a misdemeanor.

(b) For purposes of this section, "patronizing a person offering sodomy for hire" means knowingly hiring a person to engage in oral copulation or anal copulation.

(c) Every person convicted under this section (5.68.180), shall be punished by a fine of not more than five hundred dollars or six months' imprisonment or both such fine and imprisonment."

SECTION 39. Section 5.68.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Promoting sodomy for hire.** (a) Any person committing any of the following acts shall be deemed guilty of a misdemeanor:

(1) Establishing, owning, maintaining or managing a place where sodomy for hire is committed or participating in the establishment, ownership, maintenance or management thereof;

(2) Permitting any place partially or wholly owned or controlled by the defendant to be used as a place where sodomy for hire is committed;

(3) Procuring or inducing another to engage in sodomy for hire;

(4) Soliciting a patron for a person offering sodomy for hire;

(5) Procuring transportation for, paying for the transportation of or transporting a person within the city with the intention of assisting or promoting that person's engaging in sodomy for hire;

(6) Being employed to perform any act which is prohibited by this section.

(b) For purposes of this section, "sodomy for hire" is defined as performing, or offering or agreeing to perform, an act of oral copulation or anal copulation for hire.

(c) Every person convicted under this section (5.68.190), shall be punished by a fine of not more than five hundred dollars or six months' imprisonment or both such fine and imprisonment."

SECTION 40. Section 5.68.200 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Sodomy.** (a) Any person who commits sodomy (1) with another person who is sixteen or more years of age and members of the same sex, or (2) with an animal, is guilty of a misdemeanor.

(b) Every person convicted under this section shall be punished by a fine of not more than five hundred dollars, or by confinement for a period of six months, or by both such fine and imprisonment.”

SECTION 41. Section 5.68.220 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Sexual battery.** (a) Sexual battery is the touching of a victim who is sixteen or more years of age, who is not the spouse of the offender and who does not consent thereto, with the intent to arouse or satisfy the sexual desires of the offender or another.

(b) Any person who violates the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than two thousand five hundred dollars or twelve months imprisonment or by both such fine and imprisonment.”

SECTION 42. Section 5.68.215 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Anti-prostitution emphasis area—Enhanced penalties.**

(a) The following described area of the city is designated to be an anti-prostitution emphasis area:

(1) An area bounded to the north at Twenty-First Street, on the east by Washington, on the south by Second Street, and on the west by Main Street, which becomes Park Place, which encompasses all areas within those parameters, including the property on both sides of each of the boundary streets.

(2) An area bounded to the north at Waterman, on the east by Washington, on the south by Forty-Seventh Street South, and to the west by Wichita, which encompasses all areas within those parameters, including the property on both sides of each of the boundary streets.

(3) An area bounded to the north by Thirteenth Street, on the east by Hillside, on the south by Second Street, and on the west by Cleveland, which encompasses all areas within those parameters, and including the property on both sides of each of the boundary streets.

(b) Any person who commits an unlawful act of prostitution, or a prostitution-related act within the area set forth in subsection (a) is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than two thousand five hundred dollars or one year's imprisonment, or by both such fine and imprisonment. Upon a conviction of a violation of this section, the court shall impose a fine of not more than one thousand dollars, one year imprisonment or both such fine and/or imprisonment.

(c) For the purposes of this section, an unlawful act of prostitution or a prostitution-related act shall include the following sections of this code, and any amendments thereto: 5.68.010 (prostitution), 5.68.020 (patronizing a prostitute),

5.68.030 (promoting prostitution), 5.68.110 (soliciting for immoral purposes), 5.68.170 (sodomy for hire), 5.68.180 (patronizing a person offering sodomy for hire), 5.68.190 (promoting sodomy for hire), 5.68.200 (sodomy), or 5.68.210 (loitering for the purpose of solicitation).

(d) If any subsection, clause or provision of this section is for any reason held illegal, invalid or unconstitutional, such action shall not affect the remaining provisions of this section which shall remain valid to the extent possible."

SECTION 43. Section 5.72.010 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

**" Interference with Law Enforcement.** (a) Interference with law enforcement is falsely reporting to a law enforcement officer or state investigative agency that a crime has been committed, knowing that such information is false and intending that the officer or agency acts in reliance or upon such information; or

(b) Knowingly obstructing, resisting or opposing any person authorized by law to serve process in the service or execution or in the attempt to serve or execute any writ, warrant, process or order of a court, or in the discharge of any official duty.

(c) Violation—Penalty. Any person violating any provision of this section of the code is guilty of a misdemeanor and shall be punished by a fine of not more than two thousand five hundred dollars and/or an imprisonment of not more than one year and/or both such fine and imprisonment."



SECTION 44. Section 5.73.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Rioting.** (a) Riot is:

(1) five or more persons acting together without lawful authority engaging in any use of force or violence which produces a breach of the public peace, or

(2) any threat to use such force or violence against any person or property if accompanied by power or apparent power of immediate execution.

(b) Any person who violates the provisions of this section within the corporate limits of the city is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed two thousand five hundred dollars or by imprisonment for not more than one year or by both such fine and imprisonment.”

SECTION 45. Section 5.75.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Interference with conduct of public business—Defined.** Interference with the conduct of public business in public buildings is:

(a) Conduct at or in any public building owned, operated or controlled by the city or any of its political subdivisions so as to knowingly deny to any public official, public employee, or any invitee on such premises, the lawful rights of such official, employee, or invitee to enter, to use the facilities, or to leave, any such public building; or

(b) Knowingly impeding any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion, or intimidation or by force and violence or threat thereof; or

(c) Knowingly refusing or failing to leave any such public building upon being requested to do so by the chief administrative officer, or his designee, charged with maintaining order in such public building, if such person is committing, threatens to commit, or incites others to commit, any act which did or would if completed, disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures or functions being carried on in such public building; or

(d) Knowingly impeding, disrupting or hindering the normal proceedings of any meeting or session conducted by any judicial or legislative body or official at any public building by any act of intrusion into the chamber or other areas designated for the use of the body, or official conducting such meeting or session, or by any act designed to intimidate, coerce or hinder any member of such body, or any official engaged in the performance of duties at such meeting or session; or

(e) Knowingly impeding, disrupting or hindering, by any act of intrusion into the chamber or other areas designed for the use of any executive body or official, the normal proceedings of such body or official.”

SECTION 46. Section 5.75.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Interference with conduct of public business—Misdemeanor.**

Interference with the conduct of public business in public buildings is a misdemeanor.

Upon conviction such person shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500.00) or one year imprisonment or both such fine and imprisonment.”

SECTION 47. Section 5.82.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Telephone service—Interfering with.** (a) It is unlawful for any person to use any telephone instrument, telephone equipment, telephone facilities or telefacsimile communication device for any of the following purposes:

(1) Knowingly make or transmit any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent; or

(2) Making a telephone call, whether or not conversation ensues, with intent to abuse, threaten or harass any person at the called number; or

(3) Making or causing the telephone of another repeatedly to ring or repeatedly transmit a telefacsimile communication with intent to harass any person at the called number; or

(4) Knowingly play any recording on a telephone, except recordings such as weather information or sports information when the number thereof is dialed unless the person or group playing the recording shall identify itself or himself or herself and state that it is a recording; or

(5) Knowingly permit any telephone or telefacsimile communication under one's control to be used in violation of this section.

(b) As used in this section 'telefacsimile communication' means the use of electronic equipment to send or transmit a copy of a document via telephone line.

(c) Any person who shall commit an act prohibited by this section shall be punished by a fine of not more than two thousand five hundred dollars or by one year imprisonment, or by both such fine and imprisonment."

SECTION 48. Section 5.85.010 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**"Unlawful Interference with a Firefighter.** Unlawful Interference with a firefighter is knowingly:

(a) Interfering with any firefighter while engaged in the performance of such firefighter's duties;

(b) Obstructing, interfering with or impeding the efforts of any firefighter to reach the location of a fire or other emergency; or

(c) Unlawful interference with a firefighter is a misdemeanor. Any person convicted of violating this section shall be sentenced to a term of

imprisonment of not more than six months and/or a fine not to exceed one thousand dollars.”

SECTION 49. Section 5.85.020 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Interference with Emergency Medical Services Personnel.**

(a) Unlawful interference with an emergency medical services attendant is knowingly:

(1) Interfering with any attendant while engaged in the performance of such attendant’s duties; or

(2) Obstructing, interfering with or impeding the efforts of any attendant to reach the location of an emergency.

(b) Unlawful interference with an emergency medical services attendant is a misdemeanor. Any person convicted of violating this section shall be sentenced to a term of imprisonment of not more than six months and/or a fine not to exceed one thousand dollars.”

SECTION 50. Section 5.88.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Unlawful discharge of a firearm, air rifles, pellet guns and BB guns.**

(a) It is unlawful for any person to discharge or fire any gun, pistol, air rifle, pellet gun, BB gun or any other firearm within the corporate limits of the city except at any properly licensed shooting gallery or upon a pistol range or at a gun club, either of which shall be approved by the chief of police.

(b) This section shall not apply to law enforcement officers while actually engaged in the performance of such officer's duty.

(c) This section shall not apply to health officers while actually engaged in the performance of such officer's duty.

(d) This section shall not apply to historical re-enactors and actors when engaged in performances and demonstrations when the powder charge does not exceed thirty grains for pistols, sixty-five grains for long guns and one-quarter pound for cannon, and the gun contains no projectile other than the minimum amount of wadding necessary to hold the powder charge in place. Provided, however, this subsection shall only apply to those performances and demonstrations which have been approved in advance in writing by the city manager or the city managers designee.

(e) Any person who violates any of the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

(f) In addition to the penalty for the violation of this section, it shall be the duty of the municipal court judge to order any weapon seized in connection with such violation to be forfeited to the city and the same shall be disposed of by the chief of police pursuant to Section 5.88.010(11)."

SECTION 51. Section 5.88.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Air rifles, pellet guns and BB guns—Carrying within the city.**

(a) It is unlawful for any person to carry an air rifle, pellet gun or BB gun on the streets, alleys or public places within the corporate limits of the city unless the air rifle, pellet gun or BB gun is dismantled or in a scabbard.

(b) Any person who violates any of the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

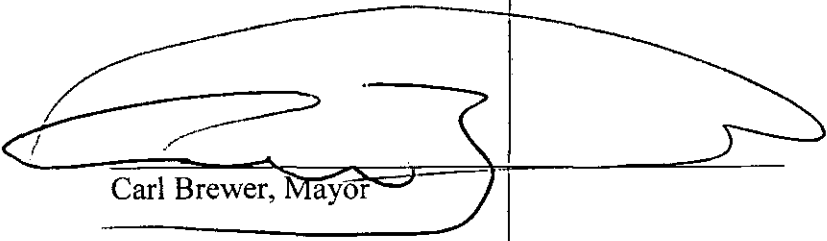
(4) In addition to the penalty for the violation of this section, the municipal court judge may, in his or her discretion, order such air rifle, pellet gun or BB gun forfeited to the city and disposed of pursuant to Section 5.88.010(11).”

SECTION 52. The originals of Sections 5.01.020, 5.10.010, 5.10.020, 5.10.025, 5.10.035, 5.15.010, 5.24.010, 5.24.040, 5.26.020, 5.28.010, 5.30.020, 5.32.010, 5.36.030, 5.38.036, 5.42.010, 5.42.015, 5.42.020, 5.42.035, 5.42.060, 5.44.040, 5.66.010, 5.66.050, 5.68.020, 5.68.030, 5.68.110, 5.68.120, 5.68.140, 5.68.150, 5.68.155, 5.68.156, 5.68.170, 5.68.180, 5.68.190, 5.68.200, 5.68.215, 5.68.220, 5.72.010, 5.73.050, 5.75.010, 5.75.020, 5.82.010, 5.88.020 and 5.88.030 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 53. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once of a summary of the ordinance, in the official city paper. Publication shall occur after July 1, 2012 and comply with the provisions of House Bill 2166 (2012).

PASSED by the governing body of the City of Wichita, Kansas, this 8th day of

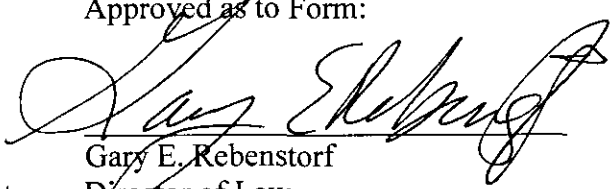
May, 2012.

  
Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

  
Gary E. Rebenstorf  
Director of Law





# AFFIDAVIT

STATE OF KANSAS

- SS.

County of Sedgwick

Mark Fletchall, of lawful age, being first duly sworn, depose and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle for 1 issues, that the first publication of said notice was

made as aforesaid on the 2nd of

July A.D. 2012, with

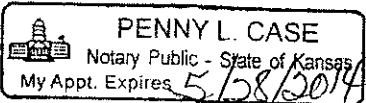
subsequent publications being made on the following dates:

And affiant further says that he has personal knowledge of the statements above set forth and that they are true.

*Mark Fletchall*

Subscribed and sworn to before me this

2nd day of July, 2012



*Penny L. Case*  
Notary Public Sedgwick County, Kansas

Printer's Fee : \$80.40

## LEGAL PUBLICATION

PUBLISHED IN THE WICHITA EAGLE

JULY 2, 2012 (3192917)

SUMMARY OF ORDINANCE NO. 49-256

AN ORDINANCE AMENDING

SECTIONS 5.01.020, 5.10.010, 5.10.020,

5.10.025, 5.10.035, 5.15.010, 5.24.010,

5.24.040, 5.26.020, 5.28.010, 5.30.020,

5.32.010, 5.36.030, 5.38.036, 5.42.010,

5.42.015, 5.42.020, 5.42.035, 5.42.060,

5.44.040, 5.66.010, 5.66.050, 5.68.005,

5.68.020, 5.68.030, 5.68.110, 5.68.120,

5.68.140, 5.68.150, 5.68.155, 5.68.156,

5.68.170, 5.68.180, 5.68.190, 5.68.200,

5.68.215, 5.68.220, 5.72.010, 5.73.050,

5.75.010, 5.75.020, 5.82.010, 5.88.020

AND 5.88.030, CREATING SECTIONS

5.26.038, 5.26.039, 5.37.030, 5.42.065,

5.42.065, 5.85.010 AND 5.85.020 OF THE

CODE OF THE CITY OF WICHITA,

KANSAS, PERTAINING TO PUBLIC

SAFETY AND MORALS AND

REPEALING THE ORIGINALS OF

SECTIONS 5.01.020, 5.10.010, 5.10.020,

5.10.025, 5.10.035, 5.15.010, 5.24.010,

5.24.040, 5.26.020, 5.28.010, 5.30.020,

5.32.010, 5.36.030, 5.38.036, 5.42.010,

5.42.015, 5.42.020, 5.42.035, 5.42.060,

5.44.040, 5.66.010, 5.66.050, 5.68.020,

5.68.030, 5.68.110, 5.68.120, 5.68.140,

5.68.150, 5.68.155, 5.68.156, 5.68.170,

5.68.180, 5.68.190, 5.68.200, 5.68.215,

5.68.220, 5.72.010, 5.73.050, 5.75.010,

5.75.020, 5.82.010, 5.88.020 AND 5.88.030

OF THE CODE OF THE CITY OF

WICHITA, KANSAS.

The amendments to the City of

Wichita's Public Safety Code bring the

City's ordinances into compliance with the

terminology used in the state criminal code.

They adopt the intent language utilized by

the state in defining criminal offenses. The

elements necessary to prove crimes under

the City's criminal ordinances mirror

the state law requirements. Further, the

amendments remove mandatory minimum

sentences for battery, prostitution and

prostitution in emphasis areas.

The City Code sections amended are as follows:

5.01.020 - Penalty - Ethnic Intimidation  
5.10.010 - Assault Deemed Misdemeanor  
5.10.025 - Domestic Battery  
5.10.035 - Battery of a Law Enforcement Officer  
5.15.010 - Victim or Witness Intimidation  
5.24.010 - Disorderly Conduct  
5.24.040 - Penalty - Violations of Chapter 5.24  
5.26.020 - Unlawful Acts Regarding Depressants,  
Stimulants or Other Substances  
5.26.038 - Distribution of Controlled Substance  
5.26.039 - Unlawful Possession of a Simulated  
Controlled Substance  
5.28.010 - Inhalation Unlawful - Exceptions  
5.30.020 - Report required (wounds)  
5.32.010 - False Alarm  
5.36.030 - Permitting Premises to be Used for  
Gambling  
5.37.030 - Defacement or Damage of Property by  
Graffiti  
5.38.036 - Fraud and Cheating in Obtaining  
Accommodations  
5.42.005 - Definitions (Larceny)  
5.42.010 - Petit Theft  
5.42.015 - Prima Facie Evidence of Intent to  
Permanently Deprive Owner or Lessor of  
Possession, Use or Benefit of Property  
5.42.020 - Giving a Worthless Check  
5.42.035 - Unlawful Use of a Financial Card  
5.42.060 - Theft of Lost or Mislaid Property  
5.42.065 - Receiving Stolen Property  
5.44.040 - Illegal Dumping  
5.66.010 - Criminal Damage to Property  
5.66.050 - Criminal Trespass  
5.66.055 - Interference with the Conduct of a Lawful  
Business  
5.68.020 - Patronizing a Prostitute  
5.68.030 - Promoting Prostitution  
5.68.110 - Soliciting for Immoral Purposes  
5.68.120 - Adultery  
5.68.140 - Lewd and Lascivious Behavior  
5.68.150 - Promoting Obscenity Unlawful - Definitions  
Evidence - Defense to Prosecution  
Exceptions - Penalty  
5.68.155 - Promoting Obscenity to Minors - Defined -  
Defense to Prosecution  
5.68.156 - Displaying Material Harmful to Minors  
5.68.170 - Sodomy for Hire  
5.68.180 - Patronizing a Person Offering Sodomy for  
Hire  
5.68.190 - Promoting Sodomy for Hire  
5.68.200 - Sodomy  
5.68.215 - Anti-prostitution - Emphasis Area -  
Enhanced Penalties  
5.68.220 - Sexual Battery  
5.72.010 - Interference with Law Enforcement  
5.73.050 - Rioting  
5.75.010 - Interference with Conduct of Public  
Business - Defined  
5.75.020 - Interference with Conduct of Public  
Business - Misdemeanor  
5.82.010 - Interference With Telephone Service  
5.85.010 - Unlawful Interference with a Firefighter  
5.85.020 - Interference with Emergency Medical  
Services Personnel  
5.88.020 - Unlawful Discharge of a Firearm, Air  
Rifles, Pellet Guns and BB Guns  
5.88.030 - Air Rifles, Pellet and BB Guns - Carrying  
Within the City  
This summary is hereby certified  
as legally accurate and sufficient in  
accordance with K.S.A. 12-3001(2) et seq.,  
as amended.

Gary E. Rebenstorf  
City Attorney  
City of Wichita, Kansas

The complete text of this Ordinance may  
be obtained or viewed free of charge at  
the office of the City Clerk, City Hall, 455  
N. Main, 13<sup>th</sup> Floor, Wichita, KS 67202 or  
viewed online at [www.wichita.gov](http://www.wichita.gov) for  
seven (7) calendar days from the date of  
this publication.